HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 114 OF 2005

M/s.Surya Enterprises. ...Petitioner

V/s.

M/s.Jayashree Distributors & Anr....Respondents.

Shri Sushant D. Modak, for petitioner.

Shri S.A.Sawant, for respondent No.1.

Shri A.S.Gadkari, APP for State.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 29, 2005

P.C. :-

1. Heard counsel for the parties.

2. The petitioner in this petition challenges the order passed by the lower court requiring the petitioner to deposit a sum of Rs.1 Lakh, as condition for suspending the sentence imposed by the trial court. The counsel for the petitioner has relied on the decision of this court reported in **2003 ALL MR (Cri) 1937, in the case of Mohmad Hafiz Khan. V/s.Anand Finance & Anr.,** to contend that the petitioner be directed to deposit 25% of the amount required to be paid by the petitioner under the order of the appellate

court. Even if, this court was to accept the submission canvassed on behalf of the petitioner, even then the petitioner would be required to deposit not less than Rs.50,000/-, as the total amount directed to be paid by the trial court is Rs.2 Lakhs. The petitioner has so far, deposited total amount of Rs.50,000/- in the court which includes the deposit made in terms of order dated April 8, 2005 by this court.

3. However, during the course of hearing, the counsel for the respondent has invited my attention to the application preferred by the petitioner before the lower court on 14th March, 2005. Certified copy of the said application is placed on record. The petitioner has prayed for 3 months' time to deposit further amount of Rs.75,000/-, so as to comply with the directions of the appellate court requiring the petitioner to deposit Rs.1 Lakh, as condition for suspension of the sentence. Although, this revision application has been filed in this court on 3rd April, 2005, the fact that the petitioner has already filed application for further time to deposit balance amount has not been disclosed in the revision application. This, in my view, is good ground to reject the present revision application, as the petitioner has not approached this court with clean

hands.

4. The counsel for the respondent submits that the respondent will have no objection, if the petitioner is given some time to deposit balance amount of Rs.75,000/-. As the petitioner has volunteered before the appellate court, as can be discerned from the formal application filed by the petitioner before that court, two months further time is granted to the petitioner to deposit balance amount of Rs.75,000/- by 30th June, 2005, which will be condition for suspension of sentence as prayed for by the petitioner. This petition is disposed of on the above terms.

5. The amount already deposited by the petitioner and the further amount to be deposited by the petitioner, in terms of this order is allowed to be withdrawn by the respondent No.1 on condition that respondent No.1 will give undertaking before the appellate court that the amount so withdrawn, will be redeposited in the court, on such terms as may be directed by the appellate court, if required, at the time of final disposal of the case.